

REMARKS

This communication is responsive to the Office Action mailed May 9, 2003. Claims 1-9, 21-23, 25-26, 34, and 36 remain pending in the case.

A. Section 102 Rejections

All claims stand rejected under 35 U.S.C. § 102(e) based on U.S. Pat. No. 6,122,603, issued September 19, 2000 to Budike (the "Budike reference").

Applicant respectfully traverses this rejection, and submits that Section 102 rejections based on this reference are improper as the effective filing date of the present application pre-dates that of the Budike reference.

Specifically, the Budike application was filed June 10, 1998, and is a continuation-in-part of application No. 09/087,621, filed May 29, 1998. Assuming, arguendo, that the parent application of the Budike application discloses the claimed subject matter, the priority date of this reference is, at the earliest, May 29, 1998.

The present application, however, was filed December 7, 1998, and claims priority to provisional patent application Serial No. 60/068,218, filed December 19, 1997.

As such, the priority date of the present application is approximately five months earlier than the priority date of the Budike reference.


Applicant's therefore request that the Section 102(e) rejections be withdrawn.

B. Conclusion

In view of the foregoing, Applicant respectfully submits that the present application is in condition for allowance, and earnestly solicits a Notice of Allowance at the Examiner's

earliest convenience. The Examiner is invited to telephone the undersigned if such would advance prosecution of this Application in any way.

Dated this 9th day of October, 2003.

By 
Daniel R. Pote
U.S. Reg. No. 43,011

SNELL & WILMER L.L.P.
One Arizona Center
Phoenix, AZ 85004-2202
Phone: (602) 382-6325
Fax: (602) 382-6070
dpote@swlaw.com